THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 13766 of 2006

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Oral order:

Assailing the order dated 17.03.2006, passed by the 1st respondent, namely the Chief General Manager (Administration), AP GENCO, rejecting the appeal filed against the order dated 07.02.2005, passed by the 2nd respondent, namely Chief Engineer, imposing punishment of stoppage of one increment without cumulative effect on the petitioner, he filed the present writ petition.

It is unfortunate to note the manner in which the 1st respondent, who is a quasi-judicial authority, occupying the position of a Chief General Manager (Administration), has passed the impugned order, dismissing the appeal filed by the petitioner against the order of the 2nd respondent. The 1st respondent in his order, after extracting the grounds urged by the petitioner in his appeal, held that after careful examination of the appeal of the petitioner, the MD/AP GENCO has decided to reject the appeal, since it does not merit consideration, and accordingly, the appeal against the final orders of the petitioner is hereby rejected. When the petitioner has preferred the appeal to the 1st respondent, and when the power of deciding the appeal of the petitioner was vested in the 1st respondent, I fail to understand how the 1st respondent could have allowed the MD/AP GENCO to decide the appeal that is pending before him. The fact that the 1st respondent did not apply his mind to the facts of the case, much less to the grounds taken by the petitioner in his appeal, is quite

evident from the order passed by him. The 1st respondent instead of deciding the appeal preferred to him by himself, has allowed the MD/AP GENCO to decide the appeal, and communicated the decision taken by the MD/AP GENCO on the appeal to the petitioner. The 1st respondent has not only failed to exercise the jurisdiction vested in him, but has allowed another authority, in whom such power is not vested, to exercise the power. The learned Standing Counsel for the respondents also failed to explain how the MD/AP GENCO to whom the appeal was not preferred, could have decided the appeal, which in fact, was preferred by the petitioner to the 1st respondent. Thus, it is clear that the

1st respondent has allowed another authority to exercise the jurisdiction vested in him, and merely communicated the decision taken by such authority on the appeal of the petitioner.

Be that as it may, the remedy of appeal is not a mere formality, and if the appellate authority were to dismiss the appeal without application of mind to the grounds of appeal, then there is no necessity for the rule making body to provide remedy of appeal against the order of an inferior authority. When grounds are taken in the appeal, it is the duty of the quasi-judicial authority in whom the power of deciding the appeal is vested, to consider the grounds of appeal in the light of the material available on record, and record his reasons either allowing or rejecting the appeal.

In the above view of the matter, the impugned order of the 1st respondent, which merely communicated the decision of the MD/AP GENCO, to reject the appeal, which in fact, was not preferred to him, cannot be sustained, and is liable to be set aside. Accordingly, the impugned order is set aside. The 1st respondent, namely the Chief

General Manager (Administration), AP GENCO, is directed to re-hear the appeal, apply his mind to the grounds taken by the petitioner in support of the appeal, and then pass appropriate orders after giving opportunity of hearing to both the sides, expeditiously. The 1st respondent, who is a quasi-judicial authority, is directed to be judicious in deciding the matters before him.

Accordingly, the writ petition is allowed. No costs.

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N.V. RAMANA, J.

Date: 7th July, 2006.
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